

### REMARKS

The indication that claims 9-14 and 21-23 would be allowable in independent form has been noted with appreciation. For the reasons which follow, it is respectfully submitted that all claims are allowable.

Claims 7, 18 and 24 have been rejected under 35 U.S.C. 102(e) as being anticipated by Mukaiyama (newly cited). This rejection is respectfully traversed.

The Office Action explains that this rejection is based on Figure 18 of Mukaiyama and states on page 3 that the shape of the first nonconductive area 55a and the opposing nonconductive 55b are different. Figure 18, however, shows that the shape of these two identified areas are identical. This is further confirmed by [0101] which states that the "resonators 52 to 55 consist of quadrangle openings 52A to 55A formed in an electrode film 2, and quadrangle openings 52B to 55B formed in an electrode film 3 so as to oppose the openings 52A to 55A." In addition, claim 7 recites that a portion of the first and second nonconductive areas of the two layers and a portion of the first conductive area of the two layers overlap and this is not satisfied by the element of Figure 18. As the Examiner will recall, the reference to "at least a portion" of the first and second nonconductive areas and first conductive area was changed in the last amendment to recite "a portion". It was pointed out in the Remarks that the configuration of the non-conductive areas in the first and third layers were different although portions overlapped.

Withdrawal of the Section 102 rejection is respectfully requested.

A rejection of claims 7, 18 and 24 under Section 103 would not be tenable for the reason applicable to the remaining rejections.

All of the other rejections are based on 35 U.S.C. 103 over Mukaiyama alone or in combination with an additional reference. However, Mukaiyama is disqualified as prior art under 35 U.S.C. 103(c).

Pursuant to MPEP 706.02(i)(2)(ii), it is stated that the above-identified application and the Mukaiyama published patent application were, at the time the invention of the above-identified application was made, owned by the same entity, namely Murata Manufacturing Co. Ltd.

Since Mukaiyama is not prior art, withdrawal of all of the Section 103 rejections is respectfully requested.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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